**Docket: 2861** 

MAY 1 0 2007

MAPPlicant:

(203-3492)

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Keith L. Milliman et al

Serial No: 10/528,975 Filed: 03/23/2005

Examiner: Brian D. Nash Group Art Unit: 3721

For: SURGICAL STAPLING DEVICE

Commissioner For Patents PO Box 1450 Alexandria, VA 22313-1450

## SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Sir:

In accordance with Applicant's duty of disclosure under 37 C.F.R §1.56, the information listed in the attached PTO-1449 form is brought to the attention of the Examiner. A copy of the European Search Report (3 pages), completion date February 13, 2007 for the corresponding EP Application (EP 03770655), is submitted herewith. Copies of the cited U.S. patents (US-5758814A and US-4917114A) are not provided pursuant to the waiver of this requirement under 37 C.F.R §1.98 for national applications filed after June 30, 2003. A copy of the cited foreign reference (WO 02/080781A2) is submitted herewith.

It is respectfully requested that the reference(s) cited with Form PTO-1449 herewith be considered during Examination of the above-identified application and made of record therein. This submission is believed to be in compliance with 37 C.F.R. §1.97 and 37 C.F.R. §1.98.

The citation of the listed item(s) is not a representation that it constitutes a complete or exhaustive listing of prior art or that it constitutes prior art. The item(s) listed is/are submitted in good faith, but is/are not intended to substitute for the Examiner's search. It is hoped, however, that in addition to apprising the Examiner, it will assist the Examiner in identifying fields of search and in making as full and complete a search as possible.

The filing of this information disclosure statement is not an admission that the information cited herein is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56(b).

() This information disclosure statement is being filed within three (3) months of the filing date of this application.

- () This information disclosure statement is being filed within three (3) months of the date of entry of the national stage as set forth in 37 C.F.R.§ 1.491 in an international application.
- () To the best of Applicant(s) knowledge, this information disclosure statement is being filed before the date of mailing of a first Office Action in connection with this case.
- () Enclosed is a certificate under 37 C.F.R. §1.97 (e)(i).
- () Enclosed is a petition under 37 C.F.R. §1.97 (d)
- () Please charge the petition fee of \$130.00 required under 37 C.F.R. §1.17 (i)(1) to Deposit Account No. 21-0550.
- () As set forth in 37 C.F.R. §1.97 (c), to the best of Applicant(s) knowledge, this information disclosure statement is being filed before either the mailing of a final action under 37 C.F.R.§1.113 or the mailing of a notice of allowance under 37 C.F.R. §1.113, and is accompanied by the \$240.00 fee as provided for in 37 C.F.R. §1.17(p).
- (X) As set forth in 37 C.F.R. 1.97 (e) (1): That each item of information contained in the information disclosure statement was cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the information disclosure statement.
- () Please charge the \$240.00 fee required by 37 C.F.R. §1.17(p) to Deposit Account No. 21-0550.
- (X) Please charge any deficiency as well as any other fee(s) which may become due under 37 C.F.R. §1.16 and/or 37 C.F.R. §1.17 at any time during the pendency of this application, or credit any overpayment of such fee(s) to Deposit Account 21-0550. Also, in the event any extensions of time for responding are required for the pending application(s), please treat this paper as a petition to extend time as required and charge Deposit Account No. 21-0550 therefore TWO COPIES OF THIS SHEET ARE ENCLOSED.

Early and favorable consideration of the case is respectfully requested.

Dated: 5/7/67

Neil D. Gershon

Reg. No. 32,225

Attorney for the Applicants

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PTO/SB/08A (08-03)

Approved for use through 07/31/2006. OMB 0651-0031
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Sheet 1

## INFORMATION DISCLOSURE STATEMENT BY APPLICANT

(Use as many sheets as necessary)

of 2

Complete if Known			
Application Number	10/528,975		
Filing Date	03/23/2005		
First Named Inventor	Keith L. Milliman et al		
Art Unit	3721		
Examiner Name	Brian D. Nash		
Attorney Docket Number	2861 (203-3492)		

			U. S. PATENT D	OCUMENTS		
Examiner Initials*	Cite No.1	Document Number  Number-Kind Code <sup>2 (d known)</sup>	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	
		<sup>US-</sup> 5758814A	06-02-1998			
		<sup>US-</sup> 4917114A	04-17-1990			
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\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. ¹Applicant's unique citation designation number (optional). ²See Kinds Codes of USPTO Patent Documents at <a href="https://www.uspto.gov">www.uspto.gov</a> or MPEP 901.04. ³Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. <sup>6</sup>Applicant is to place a check mark here if English language Translation is attached.

This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Substitute for form 1449/PTO				Complete if Known			
				Application Number	10/528,975		
INFO	ORMATION	DIS	CLOSURE	Filing Date	03/23/2005		
STATEMENT BY APPLICANT (Use as many sheets as necessary)			PPLICANT	First Named Inventor	Keith L. Milliman et al		
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(ose as many shous as necessary)		Examiner Name	Brian D. Nash				
Sheet	2	of	2	Attorney Docket Number	2861 (203-3492)		

		NON PATENT LITERATURE DOC				
Examiner Initials*	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.				
		European Search Report for EP 03770655, date of c (3 pgs)	completion is Fe	bruary 13, 2007		
Examiner	<u> </u>		Date			

Examiner	Date	
Signature	Considered	

<sup>\*</sup>EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>1</sup> Applicant's unique citation designation number (optional). 2 Applicant is to place a check mark here if English language Translation is attached.

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